1 2 3 IN THE CIRCUIT COURT OF THE STATE OF OREGON 5 FOR THE COUNTY OF WASHINGTON STATE OF OREGON, 6 No. 16CR46339 Plaintiff, 7 DEMURRER—Counts: 1 - 9 8 VS. (Unlawful Dissemination of an Intimate Image) 9 BENJAMIN JAY BARBER. Oral Argument Requested 10 Defendant. 11 12 13 COMES NOW the Defendant, by and through his attorney, Cameron Taylor, and 14 demurs to Counts 1 through 9 of the Misdemeanor Complaint. Those counts allege that on 15 or between January 1, 2016, and June 21, 2016, Defendant did "unlawfully, with the 16 intent to harass, humiliate, or injure Meagan Vance, knowingly cause[] to be disclosed 17 through an Internet website, an identifiable image of Meagan Vance whose intimate parts 18 were visible and/or who was engaged in sexual conduct, when the defendant knew or 19 reasonably should have known that Meagan Vance did not consent to the disclosure, 20 Meagan Vance was harassed, humiliated, and/or injured by the disclosure, and a 21 reasonable person would be harassed, humiliated, and/or injured by the disclosure." 22 The statute under which these charges arise criminalizes protected speech in 23 violation of both Article I, section 8 of the Oregon Constitution and the First Amendment 24 to the United States Constitution, on the grounds set forth in the attached memorandum of 25 law. 26 ///

exhibit #7

1	Defendant requests oral argument and expects that this hearing will take two
2	hours. Defendant requests reporting services for this hearing.
3	DATED this 7 day of September, 2016.
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7	Cameron Taylor, OSB # 154324 Attorney for Defendant
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- 1 Points and Authorities:
- 2 Ashcroft v. Free Speech Coalition, 535 U.S. 234 (2002);
- Board of Education v. Barnette, 319 U.S. 624 (1943);
- Brown v. Entertainment Merchant's Association, 131 S. Ct. 2729, n.1 (2011);
- 5 City of Salem v. Lawrow, 233 Or App 32 (2009);
- 6 Freedman v. State of Md., 380 U.S. 51 (1965);
- 7 Louis Daguerre, Boulevard du Temple (1838);
- 8 McCullen v. Coakley, 134 S.Ct. 2518 (2014);
- 9 Miller v. California, 413 U.S. 15 (1973);
- 10 New York v. Ferber, 458 U.S. 747 (1982);
- Oregon Constitution, Art. I, sec. 8 (2016);
- 12 Or. Rev. Stat. Sec. 163.472 (West, 2016);
- 13 Or. Rev. Stat. Sec. 163.684-163.687 (West, 2016);
- 14 Or. Rev. Stat. Sec. 163.670 (West, 2016);
- 15 Or. Rev. Stat. Sec. 163.700-701 (West, 2016);
- 16 Or. Rev. Stat. Sec. 164.377(2)(c) (West, 2016);
- 17 Or. Rev. Stat. Sec. 166.065(C) (West, 2016);
- 18 R.A.V. v. City of St. Paul, 505 U.S. 377 (1992);
- 19 Riley v. California, 134 S Ct 2473 (2014);
- 20 State v. Betnar, 214 Or.App. 416 (2007);
- 21 State v. Ciancanelli, 339 Or. 282 (2005);
- 22 State v. Plowman, 314 Or. 157 (1992);
- 23 State v. Robertson, 293 Or. 402 (1982);
- 24 State v. Stoneman, 323 Or. 536 (1996);
- 25 Turner Broadcasting System, Inc. v. F.C.C., 512 U.S. 622 (1994);
- 26 United States Constitution, Amendment I (2016);

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United States v. Playboy Entertainment Group, Inc., 529 U.S. 803 (2000);
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      United States v. Stevens, 559 U.S. 460 (2010);
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      Ward v. Rock Against Racism, 491 U.S. 781 (1989);
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      Williams-Yulee v. Florida Bar, 135 S Ct 1656 (2015).
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1	<u>CERTIFICATE OF SERVICE</u>
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3	I certify that on 7 September, 2016, I or a representative of my
4	office served the within: DEMURRER—Counts: 1 - 9 and MEMORANDUM IN
5	SUPPORT—Counts: 1 - 9 on the attorney of record for plaintiff by electronically serving
6	him a true copy thereof as required by UTCR 21.100.
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